NIH POLICY MANUAL

1754 - REPORTING ALLEGATIONS OF CRIMINAL OFFENSES, MISUSE OF NIH GRANT AND CONTRACT FUNDS, OR IMPROPER CONDUCT BY AN NIH EMPLOYEE

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1. **Explanation of Material Transmitted:** This chapter describes NIH policies and procedures regarding reporting allegations of improper conduct by NIH employees, NIH grantees and contractors, or others doing business with NIH.

2. **Filing Instructions:**

   Insert: NIH Manual Chapter 1754 dated: 06/11/97 (Keep this transmittal sheet as long as any pages are in effect).

PLEASE NOTE: For information on:

- Content of this chapter, contact the issuing office listed above.
- On-line information, enter this URL: http://www3.od.nih.gov/oma/manualchapters/
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All NIH employees have a responsibility to assist in efforts to combat fraud, waste, and abuse in all NIH programs and have the responsibility to report such matters to the appropriate official following the procedures described in Section F of this chapter, "Procedures for Reporting Allegations." Employees of NIH contractors are required to assist in efforts to combat fraud, waste and abuse in all NIH programs and to report such matters to the appropriate official following the procedures described in Section F of this chapter, to the extent these responsibilities are specified in the terms of the contract. Employees of NIH grantee organizations who become aware of the existence or apparent existence of fraud, abuse, and waste of PHS financial assistance funds are encouraged to report this to the HHS Inspector General's Office at the number provided below, as stated in the PHS Grants Policy Statement.

Criminal Offenses and allegations of Improper Conduct (see Section E for definitions) should be reported to:

- The HHS Office of Inspector General (OIG) Hotline at 800-447-8477 or

- The Office of Management Assessment (OMA), NIH at 301-496-5586 or 301-496-1873

NIH components should not attempt to investigate such matters. It is the responsibility of OMA to conduct NIH reviews of issues for which it has appropriate authority and to refer other issues to the appropriate component for investigation.

All hard copy or electronic records (including e-mail messages and attachments) created in the course of the conduct of official Government business, including laboratory notebooks, are the property of the United States Government. NIH employees are required to provide these records to the OIG or OMA if requested as part of an official review and to the Office of Legislative Policy and Analysis (OLPA) if such records are responsive to Congressional requests. Contractor and grantee organizations are required to provide access to their records to the OIG or OMA pursuant to contract and grant regulations.

Any questions regarding this chapter should be addressed to OMA at the telephone numbers provided above.

A. Purpose:

This chapter describes NIH policies and procedures regarding reporting allegations of improper conduct by NIH employees, NIH grantees and contractors, or others doing business with NIH. Such allegations may include but are not limited to: (1) criminal and civil offenses against the United States, (2) misuse of NIH grant and contract funds and grantee or contractor conflict of interest, and (3) misuse of funds and other misconduct or improper performance of assigned duties by NIH employees.

This chapter also provides an overview of the process used by OMA to review allegations of misconduct by NIH employees, NIH grantees and contractors, and others doing business with NIH. These management reviews are an important component of the NIH oversight of its internal and external programs and operations, especially with regard to the prevention of fraud, waste, abuse, mismanagement, and conflict of interest.

B. Scope:

This chapter does not cover procedures for handling matters related to loyalty and security, employee grievances, equal employment opportunity complaints (including sexual harassment complaints), classification appeals, or other matters for which a formal Government-wide review system has been established. It does not cover allegations of scientific research misconduct. Also, this chapter does not cover issues of security, property theft, and personal safety on the NIH Campus which should be reported to the NIH Police.

C. Policy:

1. Responsibility for Reporting Allegations.

a. NIH Employees.

(1) All NIH employees have a responsibility to assist in efforts to combat fraud, waste, and abuse in all NIH programs and have the responsibility to report such matters to the appropriate official following the procedures described in Section F of this chapter, "Procedures for Reporting Allegations." Chapter 5-10 of the HHS General Administration Manual and the HHS Standards of Conduct, 45 C.F.R. Part 73 Subpart M, describe employee responsibilities for reporting possible criminal violations and allegations of misconduct.

(2) All NIH employees are responsible for providing all records (hard copy and electronic, including e-mail messages and attachments), including laboratory notebooks, if these records are requested by their supervisors, OMA, or the OIG as part of an official review. NIH employees are required to provide records to OLPA that are responsive to Congressional requests.

b. Employees of NIH contractors have a responsibility to assist in efforts to combat fraud, waste, and abuse in programs supported by the NIH and have the responsibility to report such matters to the appropriate official following Section~F of this chapter to the extent required under the terms of the contract.

c. Employees of NIH grantee organizations are encouraged to report the existence or apparent
existence of fraud, waste, and abuse of PHS financial assistance funds to the HHS Inspector General's Office in writing or on the Inspector General's Hotline, as stated in the PHS Grants Policy Statement, Chapter 8, "PostAward Administration," page 8-16, "Finanical Management and Non-Federal Audits."

d. Private citizens may also report allegations of fraud, waste, and abuse to OMA or OIG at the addresses provided in Section F of this chapter.

2. Responsibility of the Office of Inspector General. The OIG is responsible for investigating allegations of wrongdoing reported to the OIG or for referring such allegations to the appropriate operating
division, staff division, the Assistant Secretary for Management and Budget/OS, or another law enforcement agency. (The OIG has authority to investigate criminal matters; both the OIG and OMA have authority to review misuse of NIH grant and contract funds, NIH grantee and contractor conflict of

interest, and improper employee conduct.)

3. Responsibility of the Office of Management Assessment. Within NIH, OMA is responsible for reviewing allegations of misuse of NIH grant and contract funds, NIH grantee and contractor conflict of
interest, improper employee conduct, violations of grant or contract regulations or policy that are not directly tied to misuse of funds, and issues referred to OMA by OIG when prosecutive or civil action has
been declined and/or OIG plans no further investigation.

4. Dual Involvement in Investigations/Reviews. In some cases, the same or related allegations may be reported to more than one organization for action. In these cases, the organization discovering the dual involvement should notify the other organization(s) involved as soon as possible to avoid confusion and duplicative information gathering efforts.

5. Confidentiality. Persons contacting either the OIG or OMA may choose to remain anonymous. If the person reporting the allegation decides not to remain anonymous but requests that his or her identity be kept confidential, the OIG, OMA, and others in the chain of command at NIH are responsible for maintaining the confidentiality of the source of the allegation to the greatest possible extent. However, NIH must provide any information and/or documents requested by a Congressional committee. NIH can request that information provided to Congress exclude or protect the identity of individuals.

6. Prohibition Against Reprisals. Any NIH employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take, threaten to take, or fail to take any personnel action regarding any employee for making a complaint or providing any information pursuant to this chapter.

No NIH employee shall subject another employee to harassment nor take any action against that employee as a reprisal for making a complaint or providing any information pursuant to this chapter. If the complaint was made or the information was disclosed with the knowledge that it was false, or with willful disregard for its truth or falsity, any action against the employee based on those reasons would not constitute a reprisal action.

7. Making a False Allegation. Any employee who knowingly makes a false allegation or displays wilful disregard for the truth or falsity of an allegation shall be subject to appropriate disciplinary action and may
be subject to prosecution under criminal law, 18 U.S.C. Sec. 1001, for making a false statement regarding a matter within the jurisdiction of the NIH (contact your servicing personnel office for assistance in taking any adverse action).

8. Cooperation with Reviews. NIH employees, supervisors, management

officials, grantees, and contract employees shall cooperate fully with the OIG and OMA during the conduct of any review or investigation.

D. References:

1. The Office of Inspector General Hotline Handbook, HHS/OIG

2. HHS General Administration Manual (GAM) Chapter 5-10, Responsibility and Procedures for Reporting Misconduct and Criminal Offenses

3. PHS Grants Policy Statement, Chapter 8, "PostAward Administration," page 8-16, "Finanical Management and Non-Federal Audits"

4. Whistleblower Protection Act, 5 U.S.C. 2302

5. Freedom of Information Act, 5 U.S.C. 552

6. Privacy Act, 5 U.S.C. 552a

7. Privacy Act System Notice: 09-90-0220, "Suitability for Employment Records HHS/OS/ASPER" - covers records of reviews concerning NIH employees

8. Section 402(b)(1) of the Public Health Service Act, 42 U.S.C. 282(b)(1) - Authority of the Director, NIH to establish and implement general policies for management and operations of programs and activities within the NIH

9. Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635

10. HHS Standards of Conduct, 45 C.F.R. Part 73 Subpart M

11. Responsibility of PHS Awardee and Applicant Institutions for Dealing with and Reporting Possible Misconduct in Science, 42 C.F.R. Sec. 50 Subpart A

12. 45 C.F.R. 74.53(e) - Authority for OMA to obtain access to records of NIH grantees and interview grantee personnel

13. Federal Acquisition Regulations, 48 C.F.R. Sections 15.106-1 and 52-215-2 - Authority for OMA to obtain access to records of NIH contractors

E. Definitions:

As used in this chapter:

1. Criminal Offenses include, but are not limited to, bribery; fraud; conflict of interest; embezzlement; misuse of funds, equipment, and facilities; perjury; and other violations of criminal law by NIH employees, grantees, contractors, or

others doing business with NIH.

2. Misuse of Grant and Contract Funds and Other Violations include any unauthorized or inappropriate use of grant or contract funds that violates Federal grant or contract regulations, HHS grants or contracts policy, or the terms of the award, and violations of grant or contract regulations or policy that are not directly tied to misuse of funds.

3. Improper Conduct includes the performance of one's assigned duties in a manner which purposely contributes to the abuse or waste of the taxpayers' money, is injurious to the integrity of the Department or the NIH, or is contrary to the standards of conduct established by HHS and the Office of Government Ethics (OGE), or established personnel practices and policies.

4. Administrative Offenses are those incidents of improper conduct that affect performance of official duties which can and should be addressed directly by supervisors with the assistance of their servicing
personnel office. Administrative offenses, which may be a single or recurring incident, include but are not limited to:

a. Leave abuse and other attendance-related offenses such as tardiness and absence without leave;
b. Use of intoxicants or substance abuse that affects performance of official duties;
c. Negligent performance of, or failure to attend to, duties;
d. Insubordinate behavior and failure to follow instructions;
e. Discourteous behavior and offensive or abusive conduct; and
f. Fighting

5. Research Misconduct is defined in Federal regulations at 42 C.F.R. Sec. 50.102.

F. Procedures for Reporting Allegations:

1. Allegations of criminal offenses. Pursuant to Chapter 5-10 of the HHS General Administration Manual (Sections 5-10-20.B and 5-10-40.B), every employee, supervisor, and management official shall immediately report any criminal offenses which he/she becomes aware of to the OIG, unless it is clear to him/her that the allegation is frivolous and has no basis in fact. The allegation must be reported to either:

a. The HHS OIG Hotline
By phone: 800-447-8477
By e-mail: Htips@os.ddhs.gov
By letter: Office of Inspector General
Department of Health and Human Services
TIPS HOTLINE
P.O. Box 23489

Washington, D.C. 20026

b. The Office of Management Assessment
By phone: 301-496-5586 or 301-496-1873
By letter: Director, Office of Management Assessment, OA, OM
National Institutes of Health
6011 Executive Blvd., Suite 601
Rockville, MD 20852-7669

Since the Inspector General has authority within HHS to conduct criminal investigations, OMA refers all allegations of criminal offenses to the Inspector General for investigation. OMA has no authority to undertake criminal investigations.

Persons making reports should provide a summary of the allegation, and if possible, provide supporting documentation. Persons making reports are encouraged to assist the OIG by providing information on how they can be contacted for additional information, but may choose to remain anonymous.

2. Allegations of misuse of grant or contract funds, grantee conflict of interest, or improper employee conduct shall be reported to OMA at the above telephone number and address. Allegations concerning senior NIH officials or OMA staff may also be reported to the OIG.

3. Allegations of administrative offenses shall be reported to the appropriate supervisor, a higher-level management official within the organization, or OMA at the above telephone number and address.

G. Office of Inspector General (OIG) Review of Allegations:

1. OIG Authority for Investigating Allegations

a. The Deputy Inspector General for Investigations (DIGI), who heads the Office of Investigations (OI), has been designated by the Secretary and the IG, as prescribed by Appendix 3 of Title 5, United States Code, to:

(1) Provide liaison for the Department with the Attorney General and staff on all investigative matters; and

(2) Conduct investigations of alleged criminal, civil, and administrative violations in programs and operations of the Department. This includes allegations of wrongdoing by employees, grantees, contractors, and others doing business with the Department.

b. This authority includes authority to undertake or authorize others to

undertake such investigations without the prior approval of higher officials. The authority excludes investigations of matters related to loyalty and security, employee grievances, equal employment opportunity complaints including sexual harassment, employee civil rights, tort claims, and similar administrative activities that are under the jurisdiction of other HHS offices.

c. All allegations involving criminal offenses against the United States by NIH employees or agents will be
sent to the OIG for review, whether they are submitted directly by the person making the allegation or
forwarded by OMA.

2. OIG Investigations of Allegations a. Investigation/Referral of Allegations Received by OIG. Depending on its assessment of the nature of the allegations it receives, the OIG may decide to conduct an investigation and/or to refer the allegation to OMA for further action.

(1) When OIG investigates the allegation and finds reasonable grounds to determine that an NIH employee or contractor, grantee, or other person doing business with NIH, has committed a criminal offense, OIG promptly notifies the United States Attorney for the district in which the alleged violation occurred; the Criminal Division, Department of Justice; or the Federal Bureau of Investigation.

(2) OIG may refer allegations of criminal activity to OMA/NIH for action if:

(a) Prosecutive action has been declined and OIG plans no further investigation of the criminal issue.

(b) After, reviewing the allegation, OIG determines that it will not investigate the issue but that the allegation, or related issues, should be addressed by NIH. OMA will either review the issue or forward it to the appropriate NIH component for review; in either case, OMA will report the final disposition of the case to OIG.

(c) A criminal investigation is ongoing, and administrative action is also being considered.

b. NIH Cooperation with OIG. All NIH employees shall cooperate fully with the OIG in reporting, conducting, and assisting with reviews of alleged criminal offenses against the United States. Through the Deputy Director for Management, OMA shall promptly report to the OIG alleged violations of law by NIH employees and agents.

c. NIH Administrative Action During an OIG Investigation.

(1) Whenever the OIG informs NIH through OMA that it has initiated an investigation of a grantee, contractor, an employee of a grantee or contractor, or an individual doing business with the Department, the NIH may wish to initiate administrative actions. This is a programmatic decision and must be made in the best interests of the Government and the individuals concerned. Consistent with HHS GAM Chapter 5-10, program decisions to suspend, limit, or terminate funds must be made in accordance with Federal regulations and HHS policy based upon the best judgment as to what the facts show regarding impact on the program, potential loss to the Government, and the credibility of the allegation.

When a criminal investigation is on-going and administrative action is being considered apart from the investigation, OMA will ensure that consultation takes place with OIG before NIH implements such action. The OIG will assess what effect the proposed administrative action might have on the criminal investigation and advise NIH through OMA accordingly.

(2) Whenever OIG informs NIH through OMA that it has initiated an investigation of an NIH employee, NIH may wish to initiate administrative actions (contact your servicing personnel office for assistance in taking any adverse action). OMA will ensure that consultation takes place with OIG before NIH implements such action.

3. OIG Report Process. When an investigation is conducted by the OIG, the OIG will determine if the findings of the investigation require additional administrative action. Where appropriate, the OIG will inform the head of the operating division or staff division, the Secretary, or other Department officials of the findings. Such reports will be in writing.

H. OMA Review of Allegations of Misuse of NIH Grant and Contract Funds and NIH Employee Misconduct:

1. OMA Authority for Reviewing Allegations of Misuse of NIH Grant and Contract Funds and Improper Conduct by NIH Employees

a. OMA is responsible for reviewing non-criminal allegations of improper employee conduct, misuse of
grant or contract funds, and grantee/contractor conflict of interest related to NIH programs and activities and may receive such allegations directly, or from NIH employees, other NIH components, private citizens,
Office of Research Integrity, OIG, other Federal agencies, or Congress.

b. General authority for OMA to conduct reviews of allegations of improper conduct by NIH employees is
provided by section 402(b)(1) of the Public Health Service Act, 42 U.S.C. 282(b)(1) which authorizes the Director, NIH, to establish and implement general policies for management and operation of programs and activities within NIH. See also 42 U.S.C. Sec. 282(b)(11).

c. OMA's authority to conduct reviews of NIH grantees is set forth in 45 C.F.R. Section 74.53(e). This section provides that HHS awarding agencies, the HHS Inspector General, the U.S. Comptroller General, or any of their duly authorized representatives, "have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts, and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents."

d. OMA's authority to conduct review of NIH contractors is set forth in 48 C.F.R. sections 15.106-1, 52.215-2, and/or the terms of the contract. 48 C.F.R. Section 52.215-2 provides that contractors, for contracts which are cost- reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contracts, or any combination of these, are required to maintain, and the Contracting Officer, or an authorized representative has, "the right to examine and audit, all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this
contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing the contract."

2. OMA Review of Allegations

a. Review/Referral of Allegations Received by OMA. OMA will promptly assess the allegations and decide whether a review is warranted and who should conduct the review. Although OMA conducts most reviews with staff from its Division of Program Integrity, OMA refers:

(1) Allegations of criminal activity, fraud, or sensitive issues involving top NIH management to the Office of Inspector General.

(2) Allegations involving research misconduct to the Office of Research Integrity.

(3) Allegations of discrimination or harassment to the Office of Equal Opportunity.

(4) Personnel matters to the Office of Human Resources Management.

(5) Administrative offenses to the appropriate NIH Institute, Center, or Division (ICD).

(6) Allegations of noncompliance with HHS regulations or policy concerning the use of human subjects or laboratory animals in research to the Office for Protection from Research Risks.

(7) Non-criminal allegations may be referred to an ICD for review if the ICD has adequate staff available for the review and there is assurance that the review will be conducted in a fair and impartial manner. The ICD will provide a copy of the written report on the review of the allegation to OMA for use in determining whether the ICD review was objective and thorough.

b. Confidentiality. OMA considers all information pertaining to a review (e.g., regarding status of review
or nature of evidence) as confidential and will provide that information only to officials with a need to know.
It is standard NIH policy to neither confirm nor deny that a review is being initiated or is underway.
Congressional committees may request information and/or documents related to OMA reviews through
OLPA; NIH can request that information provided to Congress exclude or protect the identity of individuals.

OMA and ICD records pertaining to reviews concerning NIH employees are maintained in accordance with the requirements of the Privacy Act (5 U.S.C. 552a), 45 C.F.R. Part 5b, and System Notice 09-90-0220, "Suitability for Employment Records HHS/OS/ASPER," and disclosed only to the extent permitted by the Act.

3. OMA Report Process. In order to provide involved parties with fair procedures, OMA uses a three-stage report process that includes the: Preliminary Draft, Final Draft, and Final Advisory Report. Recipients of all OMA reports are asked to maintain the confidentiality of the reports.

a. The Preliminary Draft Report is sent to the subject of the report (e.g., the employee alleged to have violated the Standards of Conduct or the institution alleged to have misused grant funds) for review and

comment.

b. The Final Draft Report, which may incorporate changes reflecting the subject's comments, is sent to the involved ICD Director for review and comment, and to the subject if the subject made substantive comments on the Preliminary Draft Report.

c. The Final Advisory Report, which may incorporate comments made by the ICD and the subject, is sent to NIH officials with a need-to-know, including the ICD Director. An information copy is sent to the subject. Final Advisory Reports are predecisional documents and are considered advisory to NIH management officials. NIH management officials may concur or nonconcur with OMA recommendations; however, they are asked to report within 30 days regarding action they are planning or have taken related to the recommendations. OMA reviews the action to ensure that it addresses the problems identified in the report. When OMA believes the actions planned or taken do not adequately address the problems identified in the report, the Director, OMA refers the issue to the Deputy Director for Management for resolution.

4. Follow-up and Reporting to OIG. OMA is responsible for monitoring all recommendations it makes in its reports and for informing the OIG, as necessary, of any follow-up administrative actions taken by NIH to correct improper conduct or effect management improvements related to systemic weaknesses.

5. Official Files. The Director, OMA on behalf of the Director, NIH, shall ensure that a file is maintained on each NIH review which is initiated. The review file shall contain complete documentary material, including all reports, showing in detail: the basis for the review, the extent of the review, persons interviewed and information furnished, records reviewed and information obtained, and any other material pertinent to the review. The file shall also contain a record of the action taken. Similar files are to be maintained by the ICDs when they conduct reviews of allegations referred by OMA. The records described in this section pertaining to reviews of NIH employees conducted by either OMA or ICDs are kept in accordance with the requirements of the Privacy Act, 5~U.S.C. Section 552a and maintained under System Notice: 09-90-0220, "Suitability for Employment Records HHS/OS/ ASPER." (Records on grantees, contractors, and others conducting business with the NIH are not covered by the Privacy Act since they are not filed by individual identifiers.)

6. Requests under the Freedom of Information Act (FOIA) for Documents Related to Investigations

Information, documents, and reports related to ongoing and completed reviews may be subject to FOIA exemptions related to predecisional documents, unwarranted invasion of personal privacy, investigations, and/or law enforcement purposes, and therefore may be withheld from public disclosure by the FOIA Office in consultation with the ICD and OMA.

To the extent permitted by the Privacy Act and required by FOIA, specific OMA record information may be released by the Privacy Act or FOIA officer on a case-by-case basis. The following general FOIA exemptions may be considered in the case-by-case review:

a. Ongoing Reviews - In general, FOIA Exemption 5 (internal governmental communications, e.g., predecisional documents, opinions, conclusions, evaluations, and recommendations), Exemption 6 (clearly unwarranted invasion of personal privacy), and Exemption 7 (record compiled for law enforcement
purposes) may be cited to preclude disclosure of information from ongoing OMA review files.

b. Completed Reviews: OMA final reports are considered advisory to the ICDs and are appropriately
characterized as predecisional documents within Exemption 5, both before and after a case is closed. The final report may be subject to release under the FOIA if the final decision of an NIH management official incorporates the report or parts of the report by reference.

7. Release of records to Congress through the Office of Legislative Policy and Analysis (OLPA)

Congressional Committees may request information and/or documents related to OMA reviews through OLPA. All NIH employees must provide any information and/or documents (including e-mail) requested by Congressional Committees. NIH can request that information provided to Congress exclude or protect the identity of individuals.

I. Records Retention and Disposal:

All records (e-mailand non-e-mail) pertaining to this chapter must be retained and disposed of under the authority of NIH Manual 1743, "Keeping and Destroying Records, Appendix 1, "NIH Records Control Schedule," Item 1700-A-4.
NIH e-mail messages. NIH e-mail messages (messages, including attachments, that are created on NIH computer systems or transmitted over NIH networks) that are evidence of the activities of the agency or have informational value are considered Federal records. Pursuant to General Records Schedule 20, Item
14 - Electronic Mail Records, e-mail messages which meet this definition should be copied to a recordkeeping system--either hard copy or electronic--and then deleted from the e-mail system.

All e-mail messages are considered Government property, and, if requested for a legitimate Government purpose, must be provided to the requester. Employees' supervisors, NIH staff conducting official reviews or investigations, and the Office of Inspector General may request access to or copies of the e-mail messages. E-mail messages must also be provided to members of Congress or Congressional committees if requested and are subject to Freedom of Information Act requests. Since most e-mail systems have back-up files that are sometimes retained for significant periods of time, e-mail messages and attachments may be retrievable from a back-up file after they have been deleted from an individual's computer. The back-up files are subject to the same requests as the original messages.

The records covered by this chapter, located in NIH (Office of the Director and ICD) files, relate to investigations and reviews of specific problems or allegations of impropriety or malfeasance and consist of documents describing the inception, nature, scope and purpose of each project; correspondence; e-mails including attachments; miscellaneous papers important to the conduct of the project or the development of final determinations; draft reports together with comments or reactions from concerned NIH officials and/or from individuals or organizations subject to review or investigation; final reports; and related follow-up documents.

1. Investigative case files documenting any investigation which, after determination in consultation with the Director, Office of Management Assessment, is historically important because it resulted in major change in NIH or HHS policy or procedure; was involved in extensive litigation; received widespread publicity in news media or scientific journals; or received considerable attention from the Congress or the Executive Office of the President.

Disposition: PERMANENT. Place in inactive file after final agency action. Transfer to the Federal Records Center after one year in inactive file or when no longer administratively needed. Offer to the National Archives 30 years after final agency action.

2. Investigative case files documenting investigations of minor infractions or improprieties (for example, improper expenditure of public funds less than $5,000), reviews of minor management problems or projects in which the final recommendation is that no action be taken.

Disposition: Place in inactive file after final agency action. Transfer to the Federal Records Center after one year in inactive file. Destroy five years after final action on the project.

3. All other investigative case files except those that are unusually significant or documenting ethical standards by NIH officials or others.

Disposition: Place in inactive file after final agency action. Transfer to the Federal Records Center after one year in inactive file. Destroy 20 years after

final action on the project.

4. Audit case files consisting of internal audits of NIH programs, operations, and procedures, and of external audits of contractors and grantees. Files consist of audit reports, correspondence, memoranda, and supporting working papers.

Disposition: Place in inactive file when case is closed. Cutoff inactive file at end of fiscal year. Transfer to the Federal Records Center after one year in inactive file. Destroy eight years after cutoff.